

County of Kaua'i Charter Commission

Regular Meeting
January 9, 2006

Agenda

Presentation by Special Counsel on:

- Priority Amendment – County Council
- Research on City/County Manager questions

Top 5 Priority Amendments

Special Meeting 12/12/05

Charter sections on:

- County Council
- Boards & Commissions
- Public Works/Parks & Recreation
- Taxing, Spending, Budgeting
- Initiative, Referendum & Recall

Overview – Priority Amendment

County Council: 3.02

- Current Law
- History of Previous Charter Amendments
 - Term of Office
 - Term Limits
 - Districting
- Proposed Changes
- Other Counties
- *Model Charter* recommendations

Current Law

CHARTER, COUNTY OF KAUAI Article III County Council

Section 3.02. Composition. There shall be a council of seven members elected at-large.

Section 3.03. Terms. The terms of office of councilmembers shall be for two years beginning at twelve o'clock meridian on the working day of December following their election.

History of Previous Charter Amendments

Subjects covered:

- Terms of Office
- Term Limits
- Districting

History (Terms & Limits) – 1972

Question:

Shall Section 3.03, Article III, of the Kauai County Charter be amended to change the term of Councilman from **2 years to 4 years?**

Result: Rejected by voters

History - 1974

Question

Shall the Revised Charter of the County of Kauai be adopted? Term of Councilman shall be **4 years or 2 years?**

Result: Accepted (2 years)

History - 1982

Question:

Shall the term of office of Council members
be extended from **2 to 4 years**?

Result: Rejected

History - 1984

Question:

Shall the term of office of Council members
be extended from **2 to 4 years?**

Result: Rejected

History - 1988

Question:

Shall the term of office of Council members
be extended from **2 to 4 years**
beginning with the 1990 election?

Result: Rejected

History - 1992

Question:

Shall the term of office of council members be extended from **2 to 4 years**, an be limited to **2 consecutive full terms**, beginning with the 1994 election; if a vacancy occurs before the close of nomination for the mid-term election, shall the appointed replacement serve only to the mid-term of the 4 year term and the unexpired term be filled by a council member elected in the mid-term election; if the vacancy occurs after the close of nomination for the mid-term election, shall the appointee serve the balance of the term?

Result: Rejected

History - 1996

Question:

Shall the term of office for council member be extended from **2 to 4 years** and be limited to **2 consecutive elected 4 year terms**, beginning with the 1998 election?

Result: Rejected

History (Districting) - 1982

Question:

Shall Council members be elected from **districts**, with one member residing in and elected from each of the **three districts** which shall be established by a reapportionment committee, and **four members elected at large**, and shall 1983 and every tenth year thereafter be a reapportionment year?

Result: Rejected

History - 1990

Question:

Effective 1992, shall Council members be elected by **districts** and shall 1991 and every tenth year thereafter be a reapportionment year?

- **5 districts** (Res#98 D2)
- **3 districts** (Res#111) ,

Result: Rejected and unsuccessfully appealed to the Hawaii Supreme Court (Lewis v. Cayetano, 72 Haw. 499)

History - 1996

Question:

Effective 1998 shall Council members be elected by **districts**, with one member residing and elected from each of **5 districts**, which shall be established by an apportionment commission to be appointed in 1997, and **2 members elected at-large**, and shall 2001 and every tenth year thereafter be a reapportionment year?

Result: Rejected

History - Observations

1. Voters have consistently rejected 4 year terms for County Council members.
2. The proposals for term limits were always attached to an increase in length of term.
3. If term limits are proposed, consider proposal by a separate amendment.

Other Counties

Refer to Handouts:

- City & County of Honolulu
- County of Maui
- County of Hawai'i

Summary of Other Counties

- All counties except Kaua'i have some form of districting
- On Maui, all council members are elected at-large but each must reside in a district
- Only Honolulu has 4 year terms for council members, all others have 2 year terms
- All other counties have 9 members
- No county has at-large members and districting

Model County Charter

(Source: National Civic League)

- Term of elected office – 4 years
- No. of Council members – (5, 7 or 9)
- Many options:
 1. Council Elected at Large
 2. Council Elected at Large with residency requirement (Maui)
 3. Mixed At-Large and Single Member District System
 4. Single-Member District System

Ideas for Proposed Changes

(per 12-12-05 meeting)

1. Single member districts
2. Districting/At-large
 - a. Charter Commission proposal
 - 4 at-large council members with staggered 4-year terms and 2 term limit
 - 3 members from districts following State Rep. lines with 2-year terms, no term limits, or 2 or 4 year term, w/3 term limit

Proposed Changes (cont'd)

b. LEAGUE OF WOMEN VOTERS, CAROL BAIN PRESENTATION (10/26/2005)

Proposed amendment on districting with possible wording:

Proposal 1 – Effective 2008 shall Council members be selected by districts, with one member residing in and elected from each of three districts, which shall be established by an apportionment commission to be appointed in 2007, and four members elected at-large, and shall 2011 and every tenth year thereafter be a reapportionment year?

OVERVIEW OF COUNCIL-MANAGER RESEARCH

- History of Kauai County form of government
- San Diego — *had 2 years*
- Highlights of Council-Manager form
- Highlights of Mayor-Council form

KAUAI COUNTY 1965

- Did not have Council-Manager form
- Elected Board of Supervisors
- Board selected part-time Chairman from among its members (equivalent to Mayor?)

Charter Commission Minutes

- 11/9/65: reflect concern by member Matsuki Arashiro that “there was no distinct separation of legislative and executive branches.”
- 12/21/65: “The Chair suggested basic consideration of the principle of separation of powers, on which all seem agreed, and that from there the Commission could move into the problem of the form of government to be adopted.”

Charter Commission Minutes (cont'd)

- 12/28/65: "It is true a Council can select a Manager who can be as bad or worse than any Strong Mayor ever has been. The real issue is acceptance of the public at this time of our political life -- what they will accept at this time, support and make effective. Both plans, depending on the support of the public, are equally effective. The issue before us is which one will have greater public support."

Why Mayor-Council Form?

- There was discussion and debate but minutes did not clearly state rationale
- Maintain separation of power?
- Follow the leader? Honolulu and other counties had adopted Mayor-Council form.

San Diego

- Council-Manager form since 1931
- In 2004, the voters passed Proposition F, a charter amendment that instituted a Mayor-Council form effective 1/1/06
- For five-year trial period unless extended by voters

San Diego (cont'd)

- Reasons for Change? Crisis!
 1. \$1.4 billion unfunded pension liability
 2. Resignation of key local gov't officials
 3. Severe reduction in credit rating leading to inability to secure access to municipal credit markets
 4. Criminal indictments of 3 sitting Council members
- RESULT: Widespread perception that decision-making lacked transparency led to loss in confidence in city government.

Council-Manager

- Professionally-trained chief executive with emphasis on technical managerial experience and expertise
- Originated in the governmental reform movement of the 1900's
- Dominant form used by smaller cities
- Council sets policies that are carried out by an appointed Manager, who serves as the city's chief executive officer.
- Mayor is a member of and often elected by the Council

Mayor-Council

- Elected Executive
- Division of power between strong executive and legislative branch of gov't
- Federal and State governments
- Council sets policy
- policy is executed by elected Mayor as chief executive and implemented by city staff managed by the Mayor

Miscellaneous Information

- Cities recently changing from Council-manager to Mayor-Council form:
 1. Fresno, CA
 2. Oakland, CA
 3. Cincinnati, OH
 4. Hartford, Conn.
 5. St. Petersburg, FL
 6. Spokane, WA
 7. Toledo, OH

References

- Facing The Challenge of Implementing Proposition F in San Diego, Rand Infrastructure, Safety, and Environment, a unit of the Rand Corporation, 2005, prepared for the Better Government Association of San Diego.
- Morris Shinsato, former County Attorney
- Int'l City/County Management Association, <http://icma.org>

Contact Information

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www.kauai.gov

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